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**FISCAL IMPACT STATEMENT**

**LS 6524**

**BILL NUMBER:** SB 391

**NOTE PREPARED:** Apr 14, 2009

**BILL AMENDED:** Apr 14, 2009

**SUBJECT:** Various Motor Vehicle Matters.

**FIRST AUTHOR:** Sen. Rogers

**FIRST SPONSOR:** Rep. Austin

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:**     **GENERAL**  
                          **X DEDICATED**  
                          **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill:

(1) authorizes the Bureau of Motor Vehicles (BMV) to adopt rules concerning the renewal of certain driver's licenses by mail or by electronic service;

(2) provides that a person who operates a motor vehicle approaching a stationary utility service vehicle displaying alternately flashing amber lights must yield the right of way by making a lane change or reducing the motor vehicle's speed on certain highways if two warning signs, and in certain circumstances at least one flagman are at the worksite;

(3) provides that the failure to move over or slow down when approaching a stationary utility service vehicle under these circumstances is a Class A infraction that may also result in the loss of driving privileges, and provides that it is a Class A infraction for an employer to require an applicant for employment to furnish the Social Security number of the applicant at the time of the application for employment if the application for employment is made by means of the Internet

(4) provides that a court may grant probationary driving privileges to an individual who is convicted of operating a vehicle while intoxicated (OWI) and may order the individual not to operate a motor vehicle for six months unless the motor vehicle is equipped with a functioning certified ignition interlock device; and

(5) provides that the individual granted probationary driving privileges shall pay all costs associated with the installation of the ignition interlock device unless the court determines that the individual is indigent.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** (1) Allowing the issuance of certain driver's licenses by mail or by electronic service will save the BMV money. The BMV reported in January 2008 the following costs on a per-vehicle registration: (a) \$1.72 for mail-in; (b) \$1.81 for online; and (c) \$6.44 for in-branch transactions. There would be credit card costs associated with online transactions, but not as much as on mail-in, since only 10% of BMV mail-in registration customers use a credit card. The fund affected is the Motor Vehicle Highway Account. The BMV issued just under 1.4 million driver's licenses in CY 2007. It is not known how many would qualify for the remote renewal based on the proposal's provisions.

[NOTE: The estimated costs described above will be updated upon receipt of more current information.]

Adopting rules will be conducted under current rule-making procedures and will have no fiscal impact. The fund affected is the Motor Vehicle Highway Account, which supports the BMV.

(3) *BMV Suspensions:* For the BMV, the suspensions of driving privileges will be handled within current procedures with no additional fiscal impact.

**Explanation of State Revenues:** (Revised) (3) *Penalty Provision:* There are no data available to indicate how many offenders will be found in violation of either failing to yield to a stationary service vehicle or requiring an individual's social Security Number on an online employment application. The bill provides that both violations are Class A infractions. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

If a criminal action, infraction or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed.

**Background:** Other offenses concerning failing to yield to an emergency vehicle include failing to yield to a stationary authorized emergency vehicle, a stationary recovery vehicle, and a stationary highway maintenance vehicle. On average between 2003 and 2007, there were 1,150 citations a year for failing to yield to an emergency vehicle. Of those, 1,138 either pled or were found guilty.

**Explanation of Local Expenditures:** (4) *Probationary Driving Privileges Minimal Costs to Counties –* Counties do not incur any additional cost when a court orders a person convicted of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their car pay the entire costs of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month. Current law does not require indigent persons convicted of OWI to pay to have an ignition interlock device installed. But current law does not require the court to pay the cost of installing and maintaining an ignition interlock device, either.

Under current law, courts can suspend a person's driving privileges or order the use of an ignition interlock

device as a condition of probationary driving privileges if the person did not refuse the test and has no prior OWI convictions within the previous ten years. Any other person with an OWI offense that has occurred within ten years is required to have an ignition interlock device installed during the probationary period. (IC 9-30-5-16) A court may substitute an alcohol treatment program using disulfuram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers with prior OWIs.

As proposed, this bill would require mandatory ignition interlock devices be installed depending on the prior history of the offender and the amount of alcohol that was consumed in the most recent arrest.

		Prior History of OWIs	
		At Least 5 but less than 10 Years	No Prior or Prior OWI Occurred More than 10 Years Ago
Blood Alcohol Content in Most Recent Arrest	More than 0.08 and less than 0.15 BAC	Mandatory	Discretionary
	At least 0.15 BAC	Mandatory	Mandatory

Based on the number of suspensions of persons convicted of OWI with no prior OWI offenses, 17,000 to 20,000 new persons could be ordered to have an ignition interlock device installed in the car they are driving if they wish to retain their driving privileges.

New License Suspensions by Calendar Year of Persons with No Prior OWI Offenses				
2003	2004	2005	2006	2007
17,029	16,741	16,261	14,396	20,048

As an illustration of the potential costs associated with indigent OWI offenders, LSA estimates that in 2007, 5,645 OWI offenders could be indigent based on the percentage of misdemeanants who qualified for pauper attorney services in 2007 ( $55,133 \text{ pauper cases} \div 195,360 \text{ cases disposed} = 28\% \times 20,000 = 5,645$ ). While counties would not be obligated to pay for the costs of installing and operating these ignition interlock devices, the added costs could range between \$1.4 M and \$2.6 M if counties actually paid for these costs.

In an informal survey, Criminal Justice Institute staff reported that courts in the following counties routinely order ignition interlock devices for OWI offenders:

- Warrick County
- Dearborn County
- Saint Joseph County
- Tippecanoe County
- Porter County
- Clark County

Use of Disulfuram – Disulfuram is a drug that causes severe (but temporary) physical distress for persons who consume alcohol after taking the drug. Under current law, a court can only order an OWI offender to use disulfuram when the offender has had an OWI conviction within the past five years. Few courts currently

use disulfuram as part of an alcohol treatment program.

**Explanation of Local Revenues:** (3) *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** BMV.

**Local Agencies Affected:** Courts with OWI jurisdiction; Trial courts, local law enforcement agencies.

**Information Sources:** Dollyne Sherman, Deputy Commissioner of the BMV, 317-233-0216; Dan Jeffries, Criminal Justice Institute; Indiana Judicial Center; *2007 Indiana Judicial Report*.

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